

**Title 14 Board of Forestry and Fire Protection**

[Notice circulated September 24, 2003]

**15-DAY NOTICE**  
**OF MODIFICATIONS TO TEXT OF PROPOSED REGULATIONS**  
**AND PUBLIC HEARING**

**Hardwood Retention-2003**

**PUBLIC HEARING**

Pursuant to the requirements of Government Code § 11346.8(c), and Title 1 of the California Code of Regulations § 44; the Board of Forestry and Fire Protection (Board) is providing notice of changes made to proposed regulations listed below which were the subject of a regulatory hearing September 16, 2003. These changes are being proposed in response to comments received regarding the proposed changes to the Forest Practice Rules. The Board will hold a public hearing to adopt final rule language. The public hearing is to be held 9:00 a.m. on Thursday, October 9, 2003, at the Resources Building Auditorium, 1<sup>st</sup> Floor, 1416 Ninth Street, Sacramento, California. The Board is providing notice of changes made to proposed regulations affecting Title 14 of the California Code of Regulations (14 CCR) Sections:

**Amend 14CCCR §§ 939.15 and 959.15 -- Protection of Wildlife**

At the hearing, any person may present statements or arguments, orally or in writing, relevant to the proposed action described in the 15 Day Notice. The Board requests, but does not require, that persons who make oral comments at the hearing also submit a summary of their statements. Additionally, pursuant to Government Code § 11125.1, any information presented to the Board during the open hearing in connection with a matter subject to discussion or consideration becomes part of the public record. Such information shall be retained by the Board and shall be made available upon request.

**WRITTEN COMMENT PERIOD**

Any person, or authorized representative, may submit written comments relevant to the proposed action described in the 15 Day Notice to the Board. The written comment period ends at 5:00 PM, on Wednesday, October 8, 2003. The Board will consider only written comments received at the Board office by that time (in addition to those written comments received at the public hearing). The Board requests, but does not require, that persons who submit written comments to the Board reference the title of the rulemaking proposal in their comments to facilitate review.

Written comments shall be submitted to the following address:

Board of Forestry and Fire Protection  
Attn: George Gentry  
Acting Executive Officer  
P.O. Box 944246  
Sacramento, CA 94244-2460

Written comments can be hand delivered to the contact person listed in this notice at the following address:

Board of Forestry and Fire Protection  
Room 1506-14  
1416 9<sup>th</sup> Street  
Sacramento, CA

Written comments may be sent to the Board via facsimile at the following phone number:

(916) 653-0989

Written comments may be delivered via e-mail at the following address:

[board.public.comments@fire.ca.gov](mailto:board.public.comments@fire.ca.gov)

### **UPDATED INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW**

At the September 16, 2003 hearing the Board of Forestry and Fire Protection (Board) held a public hearing as provided for in public notice on adoption of regulations providing the opportunity for the preparation and consideration of Hardwood Retention in the Timber Harvesting Plan process. During this hearing the Board received comments from the public both in writing and in testimony. The Board considered all written and oral comments before them at the hearing. After the hearing was closed the Board discussed the comments received and determined that they wished to consider adopting some of the proposed rule modification offered either in writing or orally at the hearing. The Board directed staff to provide those potential changes to final regulatory language to the public in a 15 day notice (GC § 11346.8(c)). The Board may adopt any one individual proposed change, a selected group of the proposed changes, or all of the proposed changes. The means of identifying the proposed changes is stated later in this notice. Following is a description and location of proposed changes being considered by the Board:

- Changes made throughout the proposed rule remove repetitive language and make clarifications to allow uniform and clear interpretation of rule subsections. These changes are

expected to improve efficient implementation and interpretation of the proposed rule, reducing confusion and improving compliance. No cost or environmental impacts to regulated community or agencies involved result due to changes to the below listed subsections. Summarized changes by subsection follows:

- **§§ 939.15 and 959.15 (a)**

The language was revised to clarify intent by replacing “shall” to “should”.

- **§§ 939.15 and 959.15 (a) (1) (A)**

The language was revised to clarify the location to which the plan applies.

- **§§ 939.15 and 959.15 (a) (1) (B)**

The language was added to provide the Board an option (Option B) to remove a potentially ambiguous and unenforceable location for preferential retention of hardwoods. The change under Option B removes reference to “other habitat areas where existing deciduous oaks are important to wildlife” as a location of preferential retention of hardwoods.

- **§§ 939.15 and 959.15 (a) (1) (C) and (D)**

The language was added to correct grammar. Also, clarification was made on locations where hardwoods can be harvested to improve oak regeneration. For §§ 939.15 and 959.15 (a) (1) (C), locations were changed to where unevenaged regeneration methods, special prescriptions, and alternative prescriptions silvicultural methods are conducted. For §§ 939.15 and 959.15 (a) (1) (D), locations were changed to where unevenaged regeneration methods, shelterwood preparatory step, special prescriptions, and alternative prescriptions are conducted.

- **§§ 939.15 and 959.15 (a) (1) (E)**

The language was revised to clarify unenforceable and ambiguous definition of “subsequent silvicultural activities” and the Board was given an option (Option B) to replace with “site preparation”.

### **AMENDED INITIAL STATEMENT OF REASONS**

#### **Technical, Theoretical, and /or Empirical study, Reports or Document**

**Added:** Report to Board of Forestry, June, 2003, on compliance and effectiveness of Hardwood Cover subsection of the biological resources portion of Technical Rule Addendum #2 of 14 CCR 932.9 and 952.9.

This report was referenced at the September 16, 2003 public hearing as documentation of effectiveness of existing rules to provide for protection of deciduous hardwoods. A copy of this report is available for review at the Board office at Room 1506-14, 1416 9<sup>th</sup> Street, Sacramento,

CA.

### **CONTACT PERSON**

Requests for copies of the proposed text of the regulations, the *Initial Statement of Reasons*, modified text of the regulations and any questions regarding the substance of the proposed action may be directed to:

Board of Forestry and Fire Protection  
Attn: Attn: George Gentry  
Acting Executive Officer  
P.O. Box 944246  
Sacramento, CA 94244-2460  
Telephone: (916) 653-9418

The designated backup person in the event Mr. Gentry is not available is Christopher Zimny, California Department of Forestry and Fire Protection, at the above address and phone.

### **AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS**

A copy of the express terms of the proposed regulation is available on request.

A copy of the express terms of the proposed regulation is also available on the Board of Forestry and Fire Protection web page:

**[http://www.fire.ca.gov/bof/board/board\\_proposed\\_rule\\_packages.html](http://www.fire.ca.gov/bof/board/board_proposed_rule_packages.html)**.

Additionally, all the information considered as the basis for this proposed regulation (i.e., rulemaking file) is available to the public at the Board's office listed above.

### **TEXT OF MODIFIED REGULATIONS**

In order to clearly indicate those sections proposed for change in this 15-day notice, the text is presented in the following format:

The Board has illustrated changes to the original text in the following manner:

- language originally proposed is UNDERLINED
- additions to the originally proposed language is DOUBLE-UNDERLINED
- deletions to the originally proposed language is ~~SINGLE STRIKEOUT~~

Notice of the 15 day comment period on changed regulations, and the full text as modified, will

be sent to any person who:

- a) testified at the hearings,
- b) submitted comments during the public comment period, including written and oral comments received at the public hearing, or
- c) requested notification of the availability of such changes from the Board of Forestry and Fire Protection.

Requests for copies of the modified text of the regulations may be directed to the contact person listed in this notice. The Board will accept written comments on the modified regulations for 15 days after the date on which they are made available.

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George Gentry  
Acting Executive Officer  
Board of Forestry and Fire Protection

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CZ 9/22/03